

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, D. C.

ORDER NO. 2245

IN THE MATTER OF:

Served July 30, 1981

Petition of BELTWAY LIMOUSINE )  
SERVICE, INC., for Modification )  
of Commission Regulation No. 70 )

Case No. MP-81-06

By petition filed April 17, 1981, Beltway Limousine Service, Inc., seeks to

. . . call the effect of (Commission) Regulation (No.) 70 to the Commission's attention. Beltway would urge the Commission to restrict the operation of Regulation (No.) 70 to areas where open competitive bidding occurs. At the least, Beltway would urge the Commission to investigate the operation of Regulation (No.) 70 to learn whether the broad public interest is indeed being served by its operation.

WMATC Regulation No. 70 was adopted in Order No. 2004, served June 20, 1979, and became effective July 21, 1979. The regulation incorporates a master certificate authorizing

CHARTER OPERATIONS PURSUANT TO CONTRACT, transporting employees, trainees, students, members of qualifying associations and persons traveling on official business, over irregular routes, between points in the Metropolitan District (except between points solely within the Commonwealth of Virginia as specified in Title II, Article XII, Section 1(b) of the Compact), restricted against the performance of sightseeing or pleasure tours. 1/

The thrust of the regulation is to ease market entry for specified charter-contract service where the underlying contract is for a fixed term of at least 181 days. In determining the need for the regulation the Commission found, among other things, that the previously-existing

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1/ WMATC Regulation No. 70-09.

regulatory procedures resulted in delays in obtaining operating authority and that transportation purchasers were sometimes in a position where a successful bidder on a contract was unable to obtain operating rights within a reasonable time. 2/

The Commission further found that

There exists a large public demand for this type of service which the Commission feels can be better served by implementing expedited market-entry procedures. The actions taken herein, we believe, will encourage the growth of the charter-contract market to the benefit of the public and all carriers. Consequently, existing carriers should not be adversely affected, and, in any event, the benefits of this action clearly outweigh the negative impact, if any, which might be engendered. 3/

Beltway contends that ". . . since adoption of Regulation No. 70, there have been only two new contracts . . . . Rather than broadening the competitive nature of the employee-type transportation market, Regulation (No.) 70 has in a sense narrowed the field due to its interaction with the Small Business Administration (SBA) '8(a)' set-aside program." The SBA "8(a)" program 4/ enables the SBA to enter into procurement contracts with federal agencies for transportation, as relevant here, and subcontract the work to qualified carriers. According to Beltway, the practical application of this section [8(a)] has been that once a minority business has qualified under the program, no other competitor, other than another "8(a)" qualified company, is considered for the contract, thus ending public competitive bidding.

Beltway asserts that the benefits from a more competitive industry, such as lower prices, more responsive service, and incentive to maintain quality operations as described by the Commission in adopting Regulation No. 70 5/ have not occurred. Instead, Beltway

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2/ Order No. 2004, page 12.

3/ Order No. 2004, page 14.

4/ The 8(a) program is responsible, inter alia, for promoting the participation of disadvantaged business enterprises in government procurement. 15 U.S.C. 631 et seq.

5/ Order No. 2004, page 13.

claims, a new non-competitive industry has resulted which is operating to the detriment of previously-certificated carriers and the public at large.

These contentions with respect to the effect of Regulation No. 70 had been advanced by Beltway previously in its opposition to the Commission's adoption of Regulation No. 70. In this petition Beltway has submitted no evidence in support of these contentions which discloses any basis in fact or in law for granting Beltway's request for modification of Regulation No. 70 at this time. Therefore, the petition shall be denied.

THEREFORE, IT IS ORDERED that the above-referenced petition be, and it is hereby, denied.

BY DIRECTION OF THE COMMISSION, COMMISSIONERS CLEMENT, SCHIFTER AND SHANNON:

  
WILLIAM H. MCGILVERY  
Executive Director

